

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TIFFANY SMITH,

Plaintiff,

v.

CITY OF OMAHA, a political subdivision existing and organized in the State of Nebraska; OMAHA POLICE DEPARTMENT; ALEX HAYES, Chief of Police, individually and in his official capacity; BENJAMIN EDWARDS, AAREN ANDERSON, and JERALD SWANSON, Omaha Police Officers, individually and in their official capacities; DON KLEINE, Douglas County Attorney, individually and in his official capacity; JOHN DOE, Douglas County Attorney, individually and in his/her official capacity; DOUGLAS COUNTY, a political subdivision existing and organized in the State of Nebraska; and JOHN DOES 1-100,

Defendants.

TIFFANY SMITH, as parent and natural guardian of Deante Smith;

Plaintiff,

v.

CITY OF OMAHA, a political subdivision existing and organized in the State of Nebraska; OMAHA POLICE DEPARTMENT; ALEX HAYES, Chief of Police, individually and in his official capacity; BENJAMIN EDWARDS, AAREN ANDERSON, and JERALD SWANSON, Omaha Police Officers, individually and in their official capacities; DON KLEINE, Douglas County Attorney, individually and in his official capacity; JOHN DOE, Douglas County Attorney, individually and in his/her official capacity; DOUGLAS COUNTY, a political subdivision existing and organized in the State of Nebraska; and JOHN DOES 1-100,

Defendants.

8:12CV330

ORDER

8:12CV331

ORDER

This matter is before the court on its own motion. It has come to the court's attention that these two cases contain substantively identical allegations and pleadings. One was filed by

Tiffany Smith on her own behalf and one by Tiffany Smith as parent and guardian of Deante Smith. The court finds the cases should be consolidated under [Fed. R. Civ. P. 42\(a\)](#), as the cases arise out of the same set of facts and are subject to the same legal standards. See [EEOC v. HBE Corp.](#), 135 F.3d 543, 551 (8th Cir. 1998).

Presently pending in Case No. 8:12CV330 is a motion to dismiss filed by defendants Aaren Anderson, City of Omaha, Benjamin Edwards, Alex Hayes, Omaha Police Department, Jerald Swanson, Filing No. 14, and an objection to the magistrate judge's order, Filing No. 42.¹ The motions are identical to the motions filed in the other case. For the reasons stated in the court's orders in Case No. 8:12CV331, Filing Nos. 43 and 44, the court finds the plaintiff's objections to the magistrate judge order should be overruled and the defendant's motion to dismiss should be granted in part and denied in part. Accordingly,

IT IS ORDERED:

1. *Tiffany Smith v. City of Omaha, et al.*, Case No. 8:12CV330, is hereby consolidated for all purposes with *Tiffany Smith, as parent and guardian of Deante Smith v. City of Omaha*, Case No. 8:12CV331.

2. The parties shall conduct discovery as if these consolidated cases are part of a single case. All future filings shall contain the consolidated case caption, which appears on this order.

3. Case No. 8:12CV330 is designated as the "Lead Case" and Case No. 8:12CV331 designated as the "Member Case."

4. The parties are instructed to file all further documents other than complaints, amended complaints, and answers in the Lead Case, and to utilize the "spread test feature of the court's CM/ECF System."

5. The plaintiff's objection (Filing No. 42 in 8:12CV330) to the magistrate judge's order (Filing No. 41 in 8:12CV330) is overruled.

6. The plaintiff's response, improperly denominated a motion (Filing No. 24) is denied as moot.

7. The Orders Setting Schedule for Initial Progression of a Civil Case, Filing Nos. 38 in 8:12CV330 and Filing No. 37 in 8:12CV331, remain in force.

8. The motion to dismiss of defendants Aaren Anderson, City of Omaha, Benjamin Edwards, Alex Hayes, Omaha Police Department, and Jerald Swanson (Filing No. 14) is granted with respect to the plaintiff's Second, Third, and Fifth Clauses of Action and denied with respect to the plaintiff's Fourth Cause of Action.

¹ Filing No. 24 is denominated as a motion but is actually a response to a motion; it is rendered moot by the filing of this order.

9. Defendants Aaren Anderson, City of Omaha, Benjamin Edwards, Alex Hayes, Omaha Police Department, and Jerald Swanson shall answer or otherwise plead within 7 days of the date of this order.

DATED this 19th day of July, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge